



General Assembly

January Session, 2003

***Raised Bill No. 1054***

LCO No. 3749

Referred to Committee on Judiciary

Introduced by:  
(JUD)

***AN ACT CONCERNING PROBATE COURT ADMINISTRATION,  
JUDGES AND PROCEEDINGS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (g) of section 5-259 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective*  
3 *October 1, 2003*):

4 (g) Notwithstanding the provisions of subsection (a) of this section,  
5 the Probate Court Administration Fund established in accordance with  
6 section 45a-82, as amended by this act, shall pay for each probate judge  
7 and Probate Court employee not more than one hundred per cent of  
8 the portion of the premium charged for his individual coverage and  
9 not more than fifty per cent of any additional cost for his form of  
10 coverage. The remainder of the premium for such coverage shall be  
11 paid by the probate judge or Probate Court employee to the State  
12 Treasurer. Payment shall be credited by the State Treasurer to the fund  
13 established by section 45a-82, as amended by this act. The total  
14 premiums payable shall be remitted by the Probate Court  
15 Administrator directly to the insurance company or companies or  
16 nonprofit organization or organizations providing the coverage. The

17 Probate Court Administrator shall [establish regulations] issue rules  
18 governing group hospitalization and medical and surgical insurance in  
19 accordance with [subdivision (1) of subsection (b) of] section 45a-77, as  
20 amended by this act.

21 Sec. 2. Subsection (e) of section 17a-274 of the general statutes is  
22 repealed and the following is substituted in lieu thereof (*Effective*  
23 *October 1, 2003*):

24 (e) Unless the respondent is represented by counsel, the court shall  
25 immediately appoint an attorney to represent the respondent from a  
26 list of attorneys admitted to practice in this state provided by the  
27 Probate Court Administrator in accordance with [regulations adopted]  
28 rules issued by the Probate Court Administrator in accordance with  
29 section 45a-77, as amended by this act. Such attorney may, unless  
30 replaced, attend all examinations preceding the hearing and may copy  
31 or inspect any and all reports concerning the respondent.

32 Sec. 3. Subsection (b) of section 17a-498 of the general statutes is  
33 repealed and the following is substituted in lieu thereof (*Effective*  
34 *October 1, 2003*):

35 (b) If the court finds that such respondent is indigent or otherwise  
36 unable to pay for counsel, the court shall appoint counsel for such  
37 respondent, unless such respondent refuses counsel and the court  
38 finds that the respondent understands the nature of his or her refusal.  
39 The court shall provide such respondent a reasonable opportunity to  
40 select his or her own counsel to be appointed by the court. If the  
41 respondent does not select counsel or if counsel selected by the  
42 respondent refuses to represent such respondent or is not available for  
43 such representation, the court shall appoint counsel for the respondent  
44 from a panel of attorneys admitted to practice in this state provided by  
45 the Probate Court Administrator in accordance with [regulations  
46 promulgated] rules issued by the Probate Court Administrator in  
47 accordance with section 45a-77, as amended by this act. The reasonable  
48 compensation of appointed counsel shall be established by, and paid

49 from funds appropriated to, the Judicial Department. [, however, if] If  
 50 funds have not been included in the budget of the Judicial Department  
 51 for such purposes, such compensation shall be established by the  
 52 Probate Court Administrator and paid from the Probate Court  
 53 Administration Fund. Prior to such hearing, such respondent or his or  
 54 her counsel, in accordance with the provisions of sections 52-146d to  
 55 52-146i, inclusive, shall be afforded access to all records, including,  
 56 [without limitation] but not limited to, hospital records if such  
 57 respondent is hospitalized, and shall be entitled to take notes  
 58 therefrom. If such respondent is hospitalized at the time of the hearing,  
 59 the hospital shall make available at such hearing for use by the patient  
 60 or his or her counsel all records in its possession relating to the  
 61 condition of the respondent. Notwithstanding the provisions of  
 62 sections 52-146d to 52-146i, inclusive, all such hospital records directly  
 63 relating to the patient shall be admissible at the request of any party or  
 64 the Court of Probate in any proceeding relating to confinement to or  
 65 release from a hospital for psychiatric disabilities. Nothing [herein] in  
 66 this section shall prevent timely objection to the admissibility of  
 67 evidence in accordance with the rules of civil procedure.

68 Sec. 4. Subsection (a) of section 17a-500 of the general statutes is  
 69 repealed and the following is substituted in lieu thereof (*Effective*  
 70 *October 1, 2003*):

71 (a) Each court of probate shall keep a record of the cases relating to  
 72 persons with psychiatric disabilities coming before [it] the court under  
 73 sections 17a-75 to 17a-83, inclusive, 17a-450 to 17a-484, inclusive, 17a-  
 74 495 to 17a-528, inclusive, 17a-540 to 17a-550, inclusive, 17a-560 to 17a-  
 75 576, inclusive, and 17a-615 to 17a-618, inclusive, and the disposition of  
 76 [them. It] such cases. The court shall also keep on file the original  
 77 application and certificate of physicians required by said sections, or a  
 78 microfilm duplicate of such records in accordance with [regulations]  
 79 rules issued by the Probate Court Administrator. All records  
 80 maintained in the courts of probate under the provisions of said  
 81 sections shall be sealed and available only to the respondent or his or

82 her counsel unless the Court of Probate, after hearing held with notice  
83 to the respondent, determines that such records should be disclosed  
84 for cause shown.

85 Sec. 5. Subsections (b) and (c) of section 17a-685 of the general  
86 statutes are repealed and the following is substituted in lieu thereof  
87 (*Effective October 1, 2003*):

88 (b) The application shall allege that the person is an  
89 alcohol-dependent person or a drug-dependent person who is  
90 dangerous to himself or herself or dangerous to others when he or she  
91 is an intoxicated person or who is gravely disabled. The application  
92 shall contain a statement that the applicant has arranged for treatment  
93 in a treatment facility. A statement to that effect from such facility shall  
94 be attached to the application. [The application shall also be  
95 accompanied by] Before the hearing on the application, there shall be  
96 filed with the court a certificate of a licensed physician who has  
97 examined the person within two days before submission of the  
98 application. The physician's certificate shall set forth the physician's  
99 findings, including clinical observation or information, or the person's  
100 medical history, in support of the allegations of the application, and a  
101 finding of whether the person presently needs and is likely to benefit  
102 from treatment, and shall include a recommendation as to the type and  
103 length of treatment and inpatient facilities available for such treatment.  
104 A physician employed by the private treatment facility to which the  
105 person is to be committed is not eligible to be the certifying physician.  
106 An application filed by a person other than the certifying physician  
107 shall set forth the facts and information upon which the applicant  
108 bases his or her allegations and the names and addresses of all  
109 physicians. Upon the filing of an application under this section, the  
110 court may issue an order for the disclosure of the medical information  
111 required pursuant to this subsection.

112 (c) Upon receipt of the application, the court shall assign a time for a  
113 hearing not later than seven business days after the date the

114 application was filed. A copy of the application and physician's  
115 certificate and the notice of the hearing [,] shall be served [,] on the  
116 respondent by a state marshal, constable or indifferent person not later  
117 than three business days before the hearing, [on the respondent,]  
118 unless the respondent is in a facility, in which case such notice shall be  
119 by regular mail. Such notice shall inform such respondent that he or  
120 she has a right to be present at the hearing, that he or she has the right  
121 to counsel and, if indigent, to have counsel appointed to represent him  
122 or her, and that such respondent has a right to cross-examine witnesses  
123 testifying at any hearing upon [that] such application. The court shall  
124 cause a recording of the testimony of such hearing to be made, to be  
125 transcribed only in the event of an appeal from the decree rendered  
126 pursuant to this section. A copy of such transcript shall be furnished  
127 without charge to any appellant whom the Court of Probate finds is  
128 unable to pay for [the same] such transcript. The cost of [said] such  
129 transcript shall be paid from funds appropriated to the Judicial  
130 Department. The court shall cause notice of [said] such hearing to be  
131 given by regular mail to the respondent's next of kin, a parent or legal  
132 guardian if the respondent is a minor, the administrator of the  
133 treatment facility if the respondent has been committed for emergency  
134 treatment pursuant to section 17a-684, and the administrator of the  
135 treatment facility to which the respondent is to be admitted. The court  
136 may order such notice as it directs to other persons having an interest  
137 in the respondent. If the court finds such respondent is indigent or  
138 otherwise unable to pay for counsel, the court shall appoint counsel for  
139 such respondent, unless such respondent refuses counsel and the court  
140 finds that the respondent understands the nature of such refusal. The  
141 court shall appoint counsel for the respondent from a panel of  
142 attorneys admitted to practice in this state provided by the Probate  
143 Court Administrator in accordance with [regulations promulgated]  
144 rules issued by the Probate Court Administrator in accordance with  
145 section 45a-77, as amended by this act. The reasonable compensation  
146 of appointed counsel shall be established by, and paid from funds  
147 appropriated to, the Judicial Department. If funds have not been

148 included in the budget of the Judicial Department for such purposes,  
149 such compensation shall be established by the Probate Court  
150 Administrator and paid from the Probate Court Administration Fund.  
151 Prior to such hearing, such respondent [,] or the respondent's counsel,  
152 in accordance with the provisions of sections 52-146d to 52-146i,  
153 inclusive, shall be afforded access to all records, including, [without  
154 limitation] but not limited to, hospital records if such respondent is  
155 hospitalized, and shall be entitled to take notes therefrom. If such  
156 respondent is hospitalized at the time of the hearing, the hospital shall  
157 make available at such hearing for use by the respondent or the  
158 respondent's counsel all records in its possession relating to the  
159 condition of the respondent. Notwithstanding the provisions of  
160 sections 52-146d to 52-146i, inclusive, all such hospital records directly  
161 relating to the respondent shall be admissible at the request of any  
162 party or the [Probate] Court of Probate in any proceeding relating to  
163 the confinement to or release from a hospital or treatment facility.  
164 Nothing in this section shall prevent timely objections to the  
165 admissibility of evidence in accordance with the rules of civil  
166 procedure.

167 Sec. 6. Subsection (g) of section 19a-221 of the general statutes is  
168 repealed and the following is substituted in lieu thereof (*Effective*  
169 *October 1, 2003*):

170 (g) Notice of the hearing shall be given to the respondent and shall  
171 inform him that he or his representative has a right to be present at the  
172 hearing; that he has a right to counsel; that he, if indigent or otherwise  
173 unable to pay for or obtain counsel, has a right to have counsel  
174 appointed to represent him; and that he has a right to cross-examine  
175 witnesses testifying at the hearing. If the court finds such respondent is  
176 indigent or otherwise unable to pay for or obtain counsel, the court  
177 shall appoint counsel for him, unless such respondent refuses counsel  
178 and the court finds that the respondent understands the nature of his  
179 refusal. The court shall provide such respondent a reasonable  
180 opportunity to select his own counsel to be appointed by the court. If

181 the respondent does not select counsel or if counsel selected by the  
182 respondent refuses to represent him or is not available for such  
183 representation, the court shall appoint counsel for the respondent from  
184 a panel of attorneys admitted to practice in this state provided by the  
185 Probate Court Administrator in accordance with [regulations  
186 promulgated] rules issued by the Probate Court Administrator in  
187 accordance with section 45a-77, as amended by this act. The reasonable  
188 compensation of appointed counsel for a person who is indigent or  
189 otherwise unable to pay for counsel shall be established by, and paid  
190 from funds appropriated to, the Judicial Department.

191 Sec. 7. Subsection (h) of section 19a-265 of the general statutes is  
192 repealed and the following is substituted in lieu thereof (*Effective*  
193 *October 1, 2003*):

194 (h) All orders by health directors and all applications or petitions for  
195 a hearing under this section shall be hand-delivered to the person  
196 subject to the order as quickly as reasonably possible and shall inform  
197 him that: (1) He or his representative has a right to be present at the  
198 hearing; (2) he has a right to counsel and, if indigent or otherwise  
199 unable to pay for or to obtain counsel, he has a right to have counsel  
200 appointed to represent him; (3) the court shall have the right to  
201 appoint and hear additional expert witnesses at the expense of the  
202 petitioner; (4) he has a right to be present and to cross-examine  
203 witnesses testifying at the hearing; (5) the proceedings before the  
204 Probate Court shall be recorded and shall be transcribed if he appeals  
205 or files a writ of habeas corpus; (6) the proceedings before the court  
206 shall be confidential and shall not be disclosed unless he or his legal  
207 representative requests, or the Probate Court so orders for good cause  
208 shown; (7) he has a right to appeal an order of the Probate Court to the  
209 Superior Court; and (8) he has a right to apply to the Probate Court to  
210 terminate or modify an order it has made under subsection (k) of this  
211 section, as provided in subsection (l) of this section. If the court finds  
212 that such person is indigent or otherwise unable to pay for or to obtain  
213 counsel, the court shall appoint counsel for him, unless such person

214 refuses counsel and the court finds that the person understands the  
 215 nature of his refusal. If the person does not select his own counsel, or if  
 216 counsel selected by the person refuses to represent him or is not  
 217 available for such representation, the court shall appoint counsel for  
 218 the person from a panel of attorneys admitted to practice in this state  
 219 provided by the Probate Court Administrator in accordance with  
 220 [regulations promulgated] rules issued by the Probate Court  
 221 Administrator in accordance with section 45a-77, as amended by this  
 222 act. The reasonable compensation of appointed counsel for a person  
 223 who is indigent or otherwise unable to pay for counsel shall be  
 224 established by, and paid from funds appropriated to, the Judicial  
 225 Department. [ , however, if] If funds have not been included in the  
 226 budget of the Judicial Department for such purposes, such  
 227 compensation shall be established by the Probate Court Administrator  
 228 and paid from the Probate Court Administration Fund.

229 Sec. 8. Section 45a-20 of the general statutes is repealed and the  
 230 following is substituted in lieu thereof (*Effective October 1, 2003*):

231 When a three-judge court is appointed by the Probate Court  
 232 Administrator, [said administrator] the Probate Court Administrator  
 233 may pay from the fund authorized under section 45a-82, as amended  
 234 by this act, a per diem rate not to exceed two hundred fifty dollars for  
 235 each judge that has been cited in, other than the judge in whose district  
 236 the matter is being heard. Such payment shall be made in accordance  
 237 with [regulations promulgated] rules issued by the Probate Court  
 238 Administrator and shall be included as income to the receiving judge  
 239 under section 45a-92, as amended by this act.

240 Sec. 9. Section 45a-25 of the general statutes is repealed and the  
 241 following is substituted in lieu thereof (*Effective October 1, 2003*):

242 (a) A judge of probate shall not appear as attorney in any contested  
 243 matter in any court of probate.

244 (b) For the purposes of subsection (a) of this section, a matter is



245 contested when any party informs the court, orally or in writing, of  
246 any objection or opposition in such matter, without regard to the  
247 apparent merit or lack of merit of such objection or opposition.

248 Sec. 10. Section 45a-77 of the general statutes is repealed and the  
249 following is substituted in lieu thereof (*Effective October 1, 2003*):

250 (a) The Probate Court Administrator may attend to any matters  
251 which the Probate Court Administrator deems necessary for the  
252 efficient operation of courts of probate and for the expeditious  
253 dispatch and proper conduct of the business of [those] such courts. The  
254 Probate Court Administrator may make recommendations to the  
255 General Assembly for legislation for the improvement of the  
256 administration of the courts of probate.

257 (b) (1) The Probate Court Administrator may issue [regulations,  
258 provided such regulations are approved in accordance with this  
259 subsection. Such regulations] rules that shall be binding on all courts of  
260 probate and shall concern the auditing, accounting, statistical, billing,  
261 recording, filing, administrative operations and other court  
262 procedures. [. (2) The Probate Court Administrator may adopt  
263 regulations, in accordance with chapter 54, provided such regulations  
264 are approved in accordance with this subsection. Such regulations  
265 shall be binding on all courts of probate and shall concern] the  
266 availability of judges, court facilities, court personnel and salaries,  
267 records [,] and hours of court operation. [and telephone service. (3)]

268 (2) Either the Probate Court Administrator or the executive  
269 committee of the Connecticut Probate Assembly may propose such  
270 [regulations] rules. Any [regulation] rule proposed by the Probate  
271 Court Administrator shall be submitted to the executive committee of  
272 the Connecticut Probate Assembly for approval. Any [regulation] rule  
273 proposed by the executive committee of the Connecticut Probate  
274 Assembly shall be submitted to the Probate Court Administrator for  
275 approval. If either the Probate Court Administrator or the executive  
276 committee of the Connecticut Probate Assembly fails to approve a

277 proposed [regulation] rule, such proposed [regulation] rule may be  
278 submitted to a panel of three Superior Court judges appointed by the  
279 Chief Justice of the Supreme Court. The panel of judges, after  
280 consideration of the positions of the Probate Court Administrator and  
281 the executive committee of the Probate Assembly, shall either approve  
282 the proposed [regulation] rule or reject the proposed [regulation] rule.

283 (c) The Probate Court Administrator shall regularly review the  
284 auditing, accounting, statistical, billing, recording, filing,  
285 administrative operations and other procedures of the several courts of  
286 probate.

287 (d) The Probate Court Administrator shall, personally, or by an  
288 authorized designee of the Probate Court Administrator who has been  
289 admitted to the practice of law in this state for at least five years, or by  
290 another person acting under the supervision of such designee, visit  
291 each court of probate at least once during each two-year period to  
292 examine the records and files of such court in the presence of the judge  
293 of the court or the judge's authorized designee. The Probate Court  
294 Administrator shall make [whatever] any additional inquiries [are  
295 deemed] that the Probate Court Administrator deems appropriate [.] to  
296 ascertain whether the business of the court, including the charging of  
297 costs and payments to the State Treasurer, has been conducted in  
298 accordance with law, rules of the courts of probate and the canons of  
299 judicial ethics, and to obtain information concerning the business of  
300 the courts of probate which is necessary for the [administrator] Probate  
301 Court Administrator to perform properly the duties of the office.

302 (e) If the Probate Court Administrator determines, in accordance  
303 with subsection (c) or (d) of this section, that the business of a court of  
304 probate has not been conducted in accordance with law, rules of the  
305 courts of probate or the canons of judicial ethics, the Probate Court  
306 Administrator may, in the Probate Court Administrator's discretion:  
307 (1) Reassign any case to another judge of probate by citation pursuant  
308 to section 45a-120; or (2) cite another judge of probate to assist the

309 judge of such court in conducting the business of such court.

310 (f) Any judge of probate who is the subject of an action of the  
 311 Probate Court Administrator pursuant to subsection (e) of this section  
 312 may request a hearing to review such action. A request for such  
 313 hearing shall be in writing and shall be given to the Probate Court  
 314 Administrator not later than five business days following the date of  
 315 such action. Any such hearing shall be held before a panel of three  
 316 judges of probate not later than ten days from the date such request is  
 317 received by the Probate Court Administrator. Such panel shall consist  
 318 of (1) the president-judge of the Connecticut Probate Assembly or, in  
 319 the event of the absence or disability of the president-judge, the first  
 320 vice-president-judge of the Connecticut Probate Assembly, who shall  
 321 preside at such hearing, and (2) two members of the executive  
 322 committee of the Connecticut Probate Assembly designated by the  
 323 president-judge or vice-president-judge. After hearing, a majority of  
 324 such panel may affirm, reverse or modify the action of the Probate  
 325 Court Administrator taken pursuant to subsection (e) of this section.

326 Sec. 11. Subsection (l) of section 45a-82 of the general statutes is  
 327 repealed and the following is substituted in lieu thereof (*Effective*  
 328 *October 1, 2003*):

329 (l) The Probate Court Administrator may issue [regulations] rules  
 330 pursuant to [subdivision (1) of subsection (b) of] section 45a-77, as  
 331 amended by this act, in order to carry out the intent of subsections (j)  
 332 and (k) of this section.

333 Sec. 12. Section 45a-92 of the general statutes is repealed and the  
 334 following is substituted in lieu thereof (*Effective October 1, 2003*):

335 (a) Each person who is a judge of probate at any time during any  
 336 calendar year shall file with the Probate Court Administrator, on or  
 337 before March first of the succeeding year, a statement signed under  
 338 penalty of false statement showing the actual gross receipts and  
 339 itemized costs of his or her office and the net income for each such

340 calendar year. If such person ceases to hold office, he or she shall also  
341 file with the Probate Court Administrator, on or before March first of  
342 the second and third years next following, a statement signed under  
343 penalty of false statement showing his or her net income from his or  
344 her former office for the first and second calendar years next following  
345 the calendar year in which he or she ceased to hold office. At the time  
346 of filing, each such person shall pay to the State Treasurer, as  
347 [hereinafter] provided in this section, the sum required by this section,  
348 less sums previously paid to the State Treasurer on account. Payment  
349 shall be credited by the State Treasurer to the fund established by  
350 section 45a-82, as amended by this act.

351 (b) The personal representative of each person who holds the office  
352 of judge of probate, at any time during any calendar year, and dies  
353 while in office, or within twenty-four months after ceasing to hold  
354 office, shall file with the Probate Court Administrator, on or before  
355 March first next following such death, a statement signed under  
356 penalty of false statement showing the actual gross receipts and  
357 itemized costs of the decedent's office for the preceding calendar year  
358 and the decedent's net income from [that] such office for such calendar  
359 year. The personal representative shall file with the Probate Court  
360 Administrator, on or before March first of the second year following  
361 [said] such death, a statement signed under penalty of false statement  
362 showing the net income to the decedent's estate from such office for  
363 the preceding calendar year.

364 (c) Each judge of probate or personal representative, except a judge  
365 of probate who is the Probate Court Administrator, shall at the time of  
366 filing such returns pay to the State Treasurer to be credited to the fund  
367 established by section 45a-82, as amended by this act, a percentage of  
368 the annual net income from such office based on the following table in  
369 which the percentage appearing in the left column shall first be  
370 multiplied by the minimum annual compensation of a high volume  
371 court as provided in subsection (k) of this section, as in effect on the  
372 first day of July of the calendar year for which an assessment is due

373 pursuant to this section, the product of which shall then be multiplied  
374 by the applicable percentage appearing in the right column:

T1	First 20% of the compensation assessment rate	
T2	of a high volume court	\$1 nominal
T3	Next 6.67%	5%
T4	Next 6.66%	10%
T5	Next 6.67%	15%
T6	Next 6.67%	25%
T7	Next 6.66%	35%
T8	Next 13.34%	50%
T9	Next 33.33%	75%
T10	Next 33.67%	80%
T11	Next 66.67%	85%
T12	Next 133.33%	95%
T13	Excess over 333.67%, up to the maximum amount computed at 97.5%	
T14	by the Probate Court Administrator	
T15	All over the maximum amount computed at 100% by the Probate	
T16	Court Administrator.	

375 As used [herein] in this subsection, "maximum amount" [shall mean]  
376 means the amount of annual net income from such office which, when  
377 applying the percentage payments set forth above, shall result in the  
378 judge of probate retaining as net compensation, after the payment of  
379 the above amounts, no more than the product resulting from the  
380 multiplication of seventy-two dollars by the annual weighted-  
381 workload of the court, as defined by [regulations to be adopted] rules  
382 issued by the Probate Court Administrator pursuant to [subdivision (3)  
383 of subsection (b) of] section 45a-77, as amended by this act, but not to  
384 exceed the compensation of a high volume court as set forth in  
385 subsection (k) of this section, provided [this] such limitation shall not  
386 apply to [those] the courts described in subsection (k) of this section.

387 Such payment shall be deemed to be a necessary expense of such office  
 388 but shall not be deductible from the gross income for the purpose of  
 389 determining net income of such office under this section.  
 390 Notwithstanding the provisions of this subsection, the annual  
 391 minimum compensation of a judge of probate shall be no less than the  
 392 product resulting from the multiplication of fifteen dollars by the  
 393 annual weighted-workload of the court, as defined by [regulations to  
 394 be adopted] rules issued by the Probate Court Administrator pursuant  
 395 to [subdivision (3) of subsection (b) of] section 45a-77, as amended by  
 396 this act, or no less than the judge's average compensation for the three-  
 397 year period from January 1, 1996, to December 31, 1998, but, in no  
 398 event shall [that] such minimum compensation exceed that provided  
 399 pursuant to subsection (k) of this section.

400 (d) (1) Any judge of probate who is the Probate Court Administrator  
 401 shall pay to the State Treasurer, to be credited to [said] the fund  
 402 established by section 45a-82, as amended by this act, one hundred per  
 403 cent of the annual net income from his office during the period of time  
 404 he serves as Probate Court Administrator. (2) For the purposes of [this]  
 405 such assessment, fees received after but earned before his appointment  
 406 as Probate Court Administrator shall be subject to the assessment set  
 407 forth in the table in subsection (c) of this section. Fees received after  
 408 such judge of probate ceases to be the Probate Court Administrator but  
 409 earned during his term as Probate Court Administrator shall be paid in  
 410 full to the State Treasurer after the deduction of the expenses of his  
 411 office. (3) The books and records of any judge of probate acting as the  
 412 Probate Court Administrator shall be audited by the Auditors of  
 413 Public Accounts at the beginning of his term as Probate Court  
 414 Administrator and thereafter at least annually during [his term as  
 415 Probate Court Administrator] such term and upon completion of his  
 416 term as Probate Court Administrator or as judge of probate whichever  
 417 occurs first. (4) A judge of probate who is the Probate Court  
 418 Administrator shall make no expenditure in his court for salaries,  
 419 equipment [,] or any other expenditure exceeding the sum of one  
 420 hundred dollars in the aggregate, annually, without first having

421 obtained the approval of the Chief Court Administrator.

422 (e) (1) On or before January thirty-first of each year, each person  
423 required to make payment under this section shall estimate such  
424 annual net income and shall advise the Probate Court Administrator  
425 thereof, upon such forms and pursuant to such [regulations as said  
426 administrator shall promulgate] rules as the Probate Court  
427 Administrator shall issue. (2) Each person who takes office as a judge  
428 of probate after February first of any calendar year, as the result of  
429 death, retirement, resignation or removal of the immediately previous  
430 incumbent of [that] such office, shall file his estimate of annual net  
431 income with the Probate Court Administrator and shall make the  
432 necessary payment to the State Treasurer in accordance therewith not  
433 later than sixty days after taking office.

434 (f) If, based upon such estimate, the amount payable shall be less  
435 than one hundred dollars, the payment thereof shall be made in one  
436 payment on or before December thirty-first of the applicable year.  
437 Otherwise, the amount payable shall be made in four substantially  
438 equal installments payable on or before the last day of March, June,  
439 September and December of the applicable year, except that in the case  
440 of an estimate filed pursuant to subdivision (2) of subsection (e) of this  
441 section, the amount payable under such estimate shall be made in  
442 substantially equal installments on such installment payment dates  
443 next following the timely filing of such estimate in such year. The  
444 estimated payment may be amended and changed at any time during  
445 the year in which it is payable by increasing or decreasing the amount.  
446 The amount of such increase or decrease shall be paid for or adjusted  
447 in the installment or payment due at the time the estimated assessment  
448 is next payable after such amendment. The Probate Court  
449 Administrator may [adopt regulations] issue rules pursuant to  
450 [subdivision (1) of subsection (b) of] section 45a-77, as amended by this  
451 act, to carry out the intent of this subsection.

452 (g) Upon the completion of each calendar year, and in any event on

453 or before the first day of April of the succeeding calendar year, each  
454 person required to make payment under this section shall make a  
455 report signed under penalty of false statement to the Probate Court  
456 Administrator, upon forms prescribed by and subject to [regulations  
457 promulgated by the administrator] rules issued by the Probate Court  
458 Administrator, of the following: (1) The gross income received by  
459 virtue of such person's office; (2) actual expenses incurred in  
460 connection with [the] such office; (3) the net income of such office prior  
461 to the payment of the assessment installments [hereinbefore] as  
462 provided in this section; (4) the amount paid during the preceding  
463 calendar year to the State Treasurer on account of the foregoing  
464 estimate; and (5) the amount of the difference, if any, between the  
465 amount so paid and the amount actually due. [This] Such report shall  
466 be open to public inspection.

467 (h) If the amount already paid was less than the amount due, such  
468 person shall, on or before March first of the succeeding calendar year,  
469 pay to the State Treasurer the entire deficiency. If the amount already  
470 paid was more than the amount due, such person shall either, at his  
471 election and pursuant to regulations [promulgated] adopted by the  
472 State Treasurer, be entitled to a refund of such excess payment to be  
473 paid from the fund [provided] established by section 45a-82, as  
474 amended by this act, or a credit in the amount of the overpayment to  
475 be charged against the future obligations of such person to said fund.

476 (i) (1) If any estimated quarterly payments required to be paid  
477 pursuant to subsection (f) of this section is less than one-fourth of  
478 seventy per cent of the total assessment due for that year or less than  
479 one-fourth of ninety-five per cent of the assessment paid for the prior  
480 year, such person shall be obligated to pay to [such] the fund  
481 established by section 45a-82, as amended by this act, a penalty of ten  
482 per cent of the amount of the deficiency, except that the Probate Court  
483 Administrator may waive such penalty for cause in accordance with  
484 [regulations adopted] rules issued pursuant to [subdivision (1) of  
485 subsection (b) of] section 45a-77, as amended by this act. Any such



486 penalty shall become payable upon demand by the Probate Court  
 487 Administrator, and be due within thirty days after such demand, in  
 488 accordance with [regulations promulgated] rules issued by the Probate  
 489 Court Administrator, and shall be subject to interest under subdivision  
 490 (2) of this subsection in the event of default in such payment. (2) Any  
 491 payments required under subsection (f) or (h) of this section which are  
 492 not paid at the applicable times prescribed in said subsections, and any  
 493 penalty payment required under subdivision (1) of this subsection  
 494 which is not timely paid, shall incur simple interest at the rate  
 495 applicable under section 12-376 for delinquent payment of succession  
 496 and transfer taxes where no extension has been granted, to be payable  
 497 to the State Treasurer and to be added to the fund established [under]  
 498 by section 45a-82, as amended by this act. Any alleged delinquency of  
 499 a judge of probate in making payments as required under this section  
 500 shall be referred by the State Treasurer to the Attorney General for  
 501 such action as the Attorney General deems necessary.

502 (j) (1) [As used in] For the purposes of this subsection and  
 503 subsections (c) to (i), inclusive, of this section, [for any calendar year,  
 504 the term] "actual expenses incurred in connection therewith", for any  
 505 calendar year, may include as an allowable deduction the amount of  
 506 any net operating loss for a prior calendar year as provided in this  
 507 section. (2) [The term] For the purposes of this subsection, "net  
 508 operating loss" means the excess of itemized costs and expenses of  
 509 office allowed by this section over the gross income. A net operating  
 510 loss may be deducted in the calendar year following the year in which  
 511 the net operating loss occurred, but (A) if the net income of such  
 512 subsequent year is not sufficient to pay all of such net operating loss,  
 513 then the balance of such net operating loss may be deducted in the  
 514 second calendar year following such net operating loss, [;] and (B) if  
 515 the net income of such second calendar year is not sufficient to pay all  
 516 of the remaining net operating loss, then the balance of such net  
 517 operating loss may be deducted in the third calendar year following  
 518 such net operating loss. In no event shall any such net operating loss or  
 519 part thereof be deductible for any report beyond the third calendar

520 year in which it occurred.

521 (k) Notwithstanding the provisions of subsection (c) of this section  
 522 concerning percentage payments, a judge of probate who is the judge  
 523 in a court of probate designated as a high volume court shall be  
 524 permitted to retain as net compensation, before the payment of any  
 525 amounts due under sections 45a-34 to 45a-54, inclusive, and 45a-75, the  
 526 sum which shall be the greater of (1) the net compensation resulting  
 527 from the application of the percentages in subsection (c) of this section,  
 528 or (2) compensation earned after payment of actual expenses of the  
 529 office not to exceed seventy-five per cent of the amount of the salary of  
 530 a Superior Court judge, as determined in accordance with subsection  
 531 (a) of section 51-47, as determined on July first of the calendar year for  
 532 which the assessments are being paid pursuant to this section. If a  
 533 judge of probate of a high volume court leaves office during a calendar  
 534 year, or if a judge of probate of a high volume court assumes office and  
 535 serves during a portion of the calendar year, the minimum net  
 536 compensation provided in this section shall be prorated in accordance  
 537 with the number of days served during the calendar year as the  
 538 numerator, and three hundred and sixty-five as the denominator,  
 539 provided if the business of the court in a calendar year does not  
 540 produce sufficient income with which to pay the minimum net  
 541 compensation, then payment for [that] such year shall not be extended  
 542 to subsequent calendar years. For the purposes of this subsection,  
 543 "high volume court" [shall mean] means a court of probate which  
 544 serves a district having an estimated population of seventy thousand  
 545 or more persons as reported in the State Register and Manual for the  
 546 calendar year immediately preceding (A) the year for which the judge  
 547 was elected, (B) the year in which such judge was elected, or (C) any  
 548 year of the term of office of such judge. The amount of assessment  
 549 payable to the State Treasurer under this section shall be reduced by  
 550 the amount necessary to provide to the judge the minimum  
 551 compensation to which such judge is entitled under this section, and  
 552 the estimates of annual net income required in subsections (e) and (f)  
 553 of this section may be reduced accordingly. Minimum compensation

554 as provided [herein] in this section shall only be payable if all ordinary  
555 and necessary expenses of the court are paid.

556 Sec. 13. Section 45a-93 of the general statutes is repealed and the  
557 following is substituted in lieu thereof (*Effective October 1, 2003*):

558 If a judge of probate leaves office or dies while in office, the  
559 successor to such judge in [said] such office [,] shall pay to such judge  
560 or the personal representative of a deceased judge [,] a sum  
561 representing the accounts receivable for payments due the court in  
562 accordance with section 45a-105, as of the date of separation from  
563 [said] such office or the date of death in the case of a judge who dies  
564 while holding such office. Determination of the basis for such accounts  
565 receivable, including computation for work in process, shall be made  
566 in accordance with [regulations] rules issued by the Probate Court  
567 Administrator. Any payments made to such judge or the personal  
568 representative of a deceased judge shall be subject to the provisions of  
569 section 45a-92, as amended by this act, and no such payments shall be  
570 made unless and until the accounts receivable are collected by the  
571 successor judge and no such payments shall be made except within the  
572 time for filing a statement signed under penalty of false statement  
573 showing the actual gross receipts of the itemized costs of the office in  
574 accordance with [said] section 45a-92, as amended by this act. There  
575 may be deducted from any such amounts by a successor judge the cost  
576 of collection thereof, and any expenses directly attributable to the  
577 outgoing judge's or deceased judge's term of office paid by the  
578 successor judge. In no event shall any such payments exceed the  
579 maximums allowable under the provisions of [said] section 45a-92, as  
580 amended by this act, in any one calendar year, and in the aggregate in  
581 no event shall the total payments payable under this section exceed  
582 one hundred per cent of the average final compensation for such judge  
583 as defined in subdivision (1) of section 45a-34, except that such  
584 allowable maximum payment shall not include any amounts of money  
585 due and payable to the judge at the time of separation from the court  
586 or at the time of such judge's death for amounts advanced by such

587 judge to the court for operating expenses and not previously repaid,  
588 which amounts may be paid to such judge or personal representative  
589 upon receipt of satisfactory proof of the existence of balances due.

590 Sec. 14. Subsection (c) of section 45a-111 of the general statutes is  
591 repealed and the following is substituted in lieu thereof (*Effective*  
592 *October 1, 2003*):

593 (c) If a petitioner or applicant to a court of probate claims that unless  
594 his or her obligation to pay the fees and the necessary costs of the  
595 action, including the cost of service of process, is waived, such  
596 petitioner or applicant will be deprived by reason of his or her  
597 indigency of his or her right to bring a petition or application to such  
598 court or that he or she is otherwise unable to pay the fees and  
599 necessary costs of the action, he or she may file with the clerk of such  
600 court of probate an application for waiver of payment of such fees and  
601 necessary costs. Such application shall be signed under penalty of false  
602 statement, shall state the applicant's financial circumstances, and shall  
603 identify the fees and costs sought to be waived and the approximate  
604 amount of each. If the court finds that the applicant is unable to pay  
605 such fees and costs, it shall order such fees and costs waived. If such  
606 costs include the cost of service of process, the court, in its order, shall  
607 indicate the method of service authorized and the cost of such service  
608 shall be paid from funds appropriated to the Judicial Department. [,  
609 however, if] If funds have not been included in the budget of the  
610 Judicial Department for such costs, such costs shall be paid from the  
611 Probate Court Administration Fund. Any fee waived under this  
612 section shall be reimbursed to the court of probate from the funds  
613 appropriated to the Judicial Department. [, however, if] If funds have  
614 not been included in the budget of the Judicial Department for such  
615 purposes, such [payment] reimbursement shall be made from the  
616 Probate Court Administration Fund pursuant to rules [and regulations  
617 established] issued by the Probate Court Administrator.

618 Sec. 15. Subsection (c) of section 45a-123 of the general statutes is

619 repealed and the following is substituted in lieu thereof (*Effective*  
620 *October 1, 2003*):

621 (c) The committee's fees shall not exceed two hundred fifty dollars  
622 per diem and shall be fixed by the court and paid by the executor,  
623 administrator, trustee, conservator, guardian or other party to the  
624 action, or by the court pursuant to [regulations established] rules  
625 issued by the Probate Court Administrator. If a party is unable to pay  
626 such fees and files an affidavit with the court demonstrating an  
627 inability to pay, the reasonable compensation of the committee shall be  
628 established by the Probate Court Administrator and paid from the  
629 Probate Court Administration Fund.

630 Sec. 16. Subsection (e) of section 45a-175 of the general statutes is  
631 repealed and the following is substituted in lieu thereof (*Effective*  
632 *October 1, 2003*):

633 (e) If the court finds such appointment to be necessary and in the  
634 best interests of the estate, the court upon its own motion may appoint  
635 an auditor, to be selected from a list provided by the Probate Court  
636 Administrator, to examine accounts over which the court has  
637 jurisdiction under this section, except [those] accounts on matters in  
638 which the fiduciary or cofiduciary is a corporation having trust  
639 powers. The Probate Court Administrator shall [promulgate  
640 regulations] issue rules in accordance with section 45a-77, as amended  
641 by this act, concerning the compilation of a list of qualified auditors.  
642 Costs of the audit may be charged to the fiduciary, any party in  
643 interest and the estate, in such proportion as the court shall direct if the  
644 court finds such charge to be equitable. Any such share may be paid  
645 from the fund established under section 45a-82, as amended by this  
646 act, subject to the approval of the Probate Court Administrator, if it is  
647 determined that the person obligated to pay such share is unable to  
648 pay or to charge such amount to the estate would cause undue  
649 hardship.

650 Sec. 17. Section 45a-650 of the general statutes is repealed and the

651 following is substituted in lieu thereof (*Effective October 1, 2003*):

652 (a) At any hearing for involuntary representation, the court shall  
653 receive evidence regarding the condition of the respondent, including  
654 a written report or testimony by one or more physicians licensed to  
655 practice medicine in the state who have examined the respondent  
656 within thirty days preceding the hearing. The report or testimony shall  
657 contain specific information regarding the disability and the extent of  
658 its incapacitating effect. The court may also consider such other  
659 evidence as may be available and relevant, including, but not limited  
660 to, a summary of the physical and social functioning level or ability of  
661 the respondent, and the availability of support services from the  
662 family, neighbors, community [,] or any other appropriate source. Such  
663 evidence may include, if available, reports from the social work service  
664 of a general hospital, municipal social worker, director of social  
665 service, public health nurse, public health agency, psychologist,  
666 coordinating assessment and monitoring agencies, or such other  
667 persons as the court deems qualified to provide such evidence. The  
668 court may waive the requirement that medical evidence be presented if  
669 it is shown that the evidence is impossible to obtain because of the  
670 absence of the respondent or his or her refusal to be examined by a  
671 physician or that the alleged incapacity is not medical in nature. If  
672 [this] such requirement is waived, the court shall make a specific  
673 finding in any decree issued on the petition stating why medical  
674 evidence was not required. In any matter in which the Commissioner  
675 of Social Services seeks the appointment of a conservator pursuant to  
676 chapter 319dd and represents to the court that an examination by an  
677 independent physician, psychologist or psychiatrist is necessary to  
678 determine whether the elderly person is capable of managing his or  
679 her personal or financial affairs, the court shall order such examination  
680 unless the court determines that such examination is not in the best  
681 interests of the elderly person. The court shall order such examination  
682 notwithstanding any medical report submitted to the court by the  
683 elderly person or the caretaker of such elderly person. Any medical  
684 report filed with the court pursuant to this subsection shall be

685 confidential.

686 (b) Upon the filing of an application for involuntary representation  
687 pursuant to section 45a-648, the court may issue an order for the  
688 disclosure of the medical information required pursuant to subsection  
689 (a) of this section.

690 ~~[(b)]~~ (c) Notwithstanding the provisions of section 45a-7, the court  
691 may hold the hearing on the application at a place within the state  
692 other than its usual courtroom if it would facilitate attendance by the  
693 respondent.

694 ~~[(c)]~~ (d) If the court finds by clear and convincing evidence that the  
695 respondent is incapable of managing his or her affairs, the court shall  
696 appoint a conservator of his or her estate unless it appears to the court  
697 that such affairs are being managed properly without the appointment  
698 of a conservator. If the court finds by clear and convincing evidence  
699 that the respondent is incapable of caring for himself or herself, the  
700 court shall appoint a conservator of his or her person unless it appears  
701 to the court that the respondent is being cared for properly without the  
702 appointment of a conservator.

703 ~~[(d)]~~ (e) When determining whether a conservator should be  
704 appointed and in selecting a conservator to be appointed for the  
705 respondent, the court shall be guided by the best interests of the  
706 respondent. In making such determination, the court shall consider  
707 whether the respondent had previously made alternative  
708 arrangements for the care of his person or for the management of his  
709 affairs, including, but not limited to, the execution of a valid durable  
710 power of attorney, the appointment of a health-care agent or other  
711 similar document. The respondent may, by oral or written request, if at  
712 the time of the request he or she has sufficient capacity to form an  
713 intelligent preference, nominate a conservator who shall be appointed  
714 unless the court finds the appointment of the nominee is not in the best  
715 interests of the respondent. In such case, or in the absence of any such  
716 nomination, the court may appoint any qualified person, authorized

717 public official or corporation in accordance with subsections (a) and (b)  
718 of section 45a-644.

719 [(e)] (f) Upon the request of the respondent or his or her counsel,  
720 made within thirty days of the date of the decree, the court shall make  
721 and furnish findings of fact to support its conclusion.

722 [(f)] (g) If the court appoints a conservator of the estate of the  
723 respondent, it shall require a probate bond. The court may, if it deems  
724 it necessary for the protection of the respondent, require a bond of any  
725 conservator of the person appointed [hereunder] under this section.

726 [(g)] (h) The court may limit the powers and duties of either the  
727 conservator of the person or the conservator of the estate, to include  
728 some, but not all, of the powers and duties set forth in subsections (a)  
729 and (b) of section 45a-644 [,] and sections 45a-655 and 45a-656, and  
730 shall make specific findings to justify such a limitation, in the best  
731 interests of the ward. In determining whether or not any such  
732 limitations should be imposed, the court shall consider the abilities of  
733 the ward, the prior appointment of any attorney-in-fact, health care  
734 agent, trustee or other fiduciary acting on behalf of the ward, any  
735 support services which are otherwise available to the ward, and any  
736 other relevant evidence. The court may modify its decree upon any  
737 change in circumstances.

738 Sec. 18. Section 45a-654 of the general statutes is repealed and the  
739 following is substituted in lieu thereof (*Effective October 1, 2003*):

740 (a) Upon written application for appointment of a temporary  
741 conservator brought by any person deemed by the court to have  
742 sufficient interest in the welfare of the respondent, including, but not  
743 limited to, the spouse or any relative of the respondent, the first  
744 selectman, chief executive officer or head of the department of welfare  
745 of the town of residence or domicile of any respondent, the  
746 Commissioner of Social Services, the board of directors of any  
747 charitable organization, as defined in section 21a-190a, or the chief



748 administrative officer of any nonprofit hospital or such officer's  
749 designee, the Court of Probate may appoint a temporary conservator [,  
750 if it] if the court finds that: (1) The respondent is incapable of  
751 managing his affairs or incapable of caring for himself; and (2)  
752 irreparable injury to the mental or physical health or financial or legal  
753 affairs of the respondent will result if a temporary conservator is not  
754 appointed pursuant to this section. The court may, in its discretion,  
755 require the temporary conservator to give a probate bond. The  
756 temporary conservator shall have charge of the property or of the  
757 person of the respondent, or both, for such period of time or for such  
758 specific occasion as the court finds to be necessary, provided a  
759 temporary appointment shall not be valid for more than thirty days,  
760 unless at any time while the appointment of a temporary conservator  
761 is in effect, an application is filed for appointment of a conservator of  
762 the person or estate under section 45a-650, as amended by this act. The  
763 court may extend the appointment of the temporary conservator until  
764 the disposition of such application, or for an additional thirty days,  
765 whichever occurs first.

766 (b) Except as provided in subsection (e) of this section, an  
767 appointment of a temporary conservator shall not be made unless a  
768 report is presented to the judge, signed by a physician licensed to  
769 practice medicine or surgery in this state, stating: (1) That the  
770 physician has examined [such person] the respondent and the date of  
771 such examination, which shall not be more than three days prior to the  
772 date of presentation to the judge; (2) that it is the opinion of the  
773 physician that the respondent is incapable of managing his affairs or of  
774 caring for himself; and (3) the reasons for such opinion. Any  
775 physician's report filed with the court pursuant to this subsection shall  
776 be confidential. The court may issue an order for the disclosure of the  
777 medical information required pursuant to this subsection.

778 (c) The court may, ex parte and without prior notice to the  
779 respondent, appoint a temporary conservator upon making the  
780 findings required by subsection (a) of this section. After making such

781 appointment, the court shall immediately: (1) Appoint an attorney to  
782 represent the respondent, provided if the respondent is unable to pay  
783 for the services of such attorney, the reasonable compensation for such  
784 attorney shall be established by, and paid from funds appropriated to,  
785 the Judicial Department, [however] provided, if funds have not been  
786 included in the budget of the Judicial Department for such purposes,  
787 such compensation shall be established by the Probate Court  
788 Administrator and paid from the Probate Court Administration Fund;  
789 and (2) give notice by mail, or such other notice as the court deems  
790 appropriate, to the respondent, the respondent's next of kin and such  
791 attorney, which notice shall include: (A) A copy of the application for  
792 appointment of a temporary conservator and the accompanying  
793 physician's report; and (B) a copy of the decree appointing a temporary  
794 conservator. If the court determines that notice to the respondent  
795 under this subsection would be detrimental to the health or welfare of  
796 the respondent, the court may give such notice only to the  
797 respondent's next of kin and the respondent's attorney. Thereafter, the  
798 court shall, upon the written request of the respondent, the  
799 respondent's next of kin or the respondent's attorney, or may upon its  
800 own motion, hold a hearing. Such hearing shall be held within  
801 seventy-two hours of receipt of such request, excluding Saturdays,  
802 Sundays and holidays, and upon such notice as the court deems  
803 appropriate. After hearing, the court may confirm or revoke the  
804 appointment of the temporary conservator.

805 (d) If the court determines that an ex parte appointment of a  
806 temporary conservator pursuant to subsection (c) of this section is not  
807 appropriate but finds substantial evidence that appointment of a  
808 temporary conservator may be necessary, the court shall hold a  
809 hearing on the application. Unless continued by the court for cause,  
810 such hearing shall be held within seventy-two hours of receipt of the  
811 application, excluding Saturdays, Sundays and holidays. Prior to such  
812 hearing, the court shall appoint an attorney to represent the  
813 respondent in accordance with subsection (c) of this section and shall  
814 give such notice as it deems appropriate to the respondent, the

815 respondent's next of kin and such attorney, which notice shall include  
816 a copy of the application for appointment of a temporary conservator  
817 and the accompanying physician's report. After hearing and upon  
818 making the findings required by subsection (a) of this section, the court  
819 may appoint a temporary conservator.

820 (e) The court may waive the medical evidence requirement under  
821 subsection (b) of this section if the court finds that the evidence is  
822 impossible to obtain because of the refusal of the respondent to be  
823 examined by a physician. In any such case, the court may, in lieu of  
824 medical evidence, accept other competent evidence. In any case in  
825 which the court waives the requirement of medical evidence as  
826 provided in this subsection, the court shall (1) make a specific finding  
827 in any decree issued on the application stating why medical evidence  
828 was not required, and (2) if a hearing has not been held, schedule a  
829 hearing under subsection (c) of this section, which hearing shall take  
830 place within seventy-two hours of the issuance of the court's decree.

831 (f) On termination of the temporary conservatorship, the temporary  
832 conservator shall file a written report with the court of his actions as  
833 temporary conservator.

834 Sec. 19. Section 45a-660 of the general statutes is repealed and the  
835 following is substituted in lieu thereof (*Effective October 1, 2003*):

836 (a) (1) If the court of probate having jurisdiction finds a ward to be  
837 capable of caring for himself or herself, the court shall, upon hearing  
838 and after notice, order that the conservatorship of the person be  
839 terminated. If the court finds, upon hearing and after notice which the  
840 court prescribes, that a ward is capable of managing his or her own  
841 affairs, the court shall order that the conservatorship of the estate be  
842 terminated and that the remaining portion of his or her property be  
843 restored to the ward. (2) If the court finds, upon hearing and after  
844 notice which the court prescribes, that a ward has no assets of any kind  
845 remaining except for that amount allowed by subsection (c) of section  
846 17b-80, the court may order that the conservatorship of the estate be

847 terminated. The court shall thereupon order distribution of the  
848 remaining assets to the conservator of the person or, if there is no  
849 conservator or the conservator declines or is unable to accept or the  
850 conservator is the Commissioner of Social Services, to some suitable  
851 person, to be determined by the court, to hold for the benefit of the  
852 ward, upon such conservator or person giving such probate bond, if  
853 any, as the court orders. (3) If any ward having a conservator dies, his  
854 or her property, other than property which has accrued from the sale  
855 of his or her real property, shall be delivered to his or her executor or  
856 administrator. The unexpended proceeds of his or her real property  
857 sold as [aforesaid] specified in this subdivision shall go into the hands  
858 of the executor or administrator, to be distributed as such real property  
859 would have been.

860 (b) (1) In any case under subsection (a) of this section, the  
861 conservator shall file in the court his or her final account, and the court  
862 shall audit the account and allow the account if it is found to be  
863 correct. If the ward is living, the ward and his or her attorney, if any,  
864 shall be entitled to notice by regular mail of any hearing held on the  
865 final account. (2) The court of probate having jurisdiction shall send  
866 written notice annually to the ward and his or her attorney that the  
867 ward has a right to a hearing under this section. Upon receipt of  
868 request for such hearing the court shall set a time and date for the  
869 hearing, which date shall not be more than thirty days from the receipt  
870 of the application unless continued for cause shown.

871 (c) The court shall review each conservatorship at least every three  
872 years, and shall either continue, modify or terminate the order for  
873 conservatorship. The court shall receive and review written evidence  
874 as to the condition of the ward. The conservator, the attorney for the  
875 ward and a physician licensed to practice medicine in this state, shall  
876 each submit a written report to the court within forty-five days of the  
877 court's request for such report. If the ward is unable to request or  
878 obtain an attorney, the court shall appoint an attorney. If the ward is  
879 unable to pay for the services of the attorney, the reasonable

880 compensation of such attorney shall be established by, and paid from  
 881 funds appropriated to, the Judicial Department. [ , however, if] If funds  
 882 have not been included in the budget of the Judicial Department for  
 883 such purposes, such compensation shall be established by the Probate  
 884 Court Administrator and paid from the Probate Court Administration  
 885 Fund. The physician shall examine the ward within the forty-five-day  
 886 period preceding the date of submission of his report. Any physician's  
 887 report filed with the court pursuant to this subsection shall be  
 888 confidential. The court may issue an order for the disclosure of medical  
 889 information required pursuant to this subsection.

890 (d) If the court determines, after receipt of the reports from the  
 891 attorney for the ward, the physician and the conservator, that there has  
 892 been no change in the condition of the ward since the last preceding  
 893 review by the court, a hearing on the condition of the ward shall not be  
 894 required, but the court, in its discretion, may hold such hearing. If the  
 895 attorney for the ward, the physician or conservator requests a hearing,  
 896 the court shall hold a hearing within thirty days of such request.

897 Sec. 20. Section 45a-694 of the general statutes is repealed and the  
 898 following is substituted in lieu thereof (*Effective October 1, 2003*):

899 Upon the filing of an application for a determination of an  
 900 individual's ability to give informed consent to sterilization, the court  
 901 shall appoint legal counsel to represent any respondent who has not  
 902 selected a counsel to represent such respondent in response to the  
 903 application. Such legal counsel shall be from a panel of attorneys  
 904 admitted to practice in this state provided by the Probate Court  
 905 Administrator in accordance with [regulations promulgated] rules  
 906 issued by the Probate Court Administrator in accordance with section  
 907 45a-77, as amended by this act. In establishing such panel, the Probate  
 908 Court Administrator shall seek recommendations from the Office of  
 909 Protection and Advocacy for Persons with Disabilities, an attorney  
 910 from which may be included in such panel. The reasonable  
 911 compensation of an appointed legal counsel shall be established by the

912 court. Such compensation shall be charged to the respondent provided,  
913 if the court finds such respondent is unable to pay such compensation,  
914 [it] such compensation shall be paid from the Probate Court  
915 Administration Fund.

916 Sec. 21. Section 45a-695 of the general statutes is repealed and the  
917 following is substituted in lieu thereof (*Effective October 1, 2003*):

918 At any hearing upon such application, the court shall receive  
919 evidence concerning the respondent's ability to give informed consent.  
920 Such evidence shall include, but [shall] not be limited to, reports in  
921 writing signed under penalty of false statement from an  
922 interdisciplinary team of at least three impartial panel members  
923 appointed by the court from a panel of physicians, psychologists,  
924 educators and social and residential workers who have personally  
925 observed, examined or worked with such respondent at some time  
926 during the twelve months preceding such hearing. Such appointments  
927 shall be made in accordance with [regulations to be promulgated] rules  
928 issued by the Probate Court Administrator in accordance with section  
929 45a-77, as amended by this act. The reasonable compensation of such  
930 appointed panel members shall be established by the court. Such  
931 compensation shall be charged to the respondent provided, if the court  
932 finds such respondent is unable to pay such compensation, [it] such  
933 compensation shall be paid from the Probate Court Administration  
934 Fund. Each such appointed panel member shall make his or her  
935 written report under penalty of false statement on a separate form  
936 provided for [that] such purpose by the court and shall answer such  
937 questions as may be set forth on such form as fully and completely as  
938 reasonably possible. The reports shall contain specific information  
939 regarding the respondent's ability to give informed consent and shall  
940 indicate the specific aspects of informed consent which the respondent  
941 lacks. Each such appointed panel member shall state upon the forms  
942 the reasons for his or her opinion. Such respondent or his or her  
943 counsel shall have the right to present evidence and cross-examine  
944 witnesses who testify at any hearing on the application. If such

945 respondent or his or her counsel notifies the court not less than three  
946 days before the hearing that he or she wishes to cross-examine the  
947 appointed panel members, the court shall order such members to  
948 appear.

949 Sec. 22. (NEW) (*Effective October 1, 2003*) In any proceeding before a  
950 court of probate, the court may issue an order for the disclosure of  
951 medical information relevant to the determination of the matter before  
952 the court. The order may require the disclosure of such medical  
953 information to: (1) The court; (2) any executor, administrator,  
954 conservator, guardian or trustee appointed by the court; (3) any  
955 attorney representing the individual who is the subject of such medical  
956 information; (4) any guardian ad litem for the individual who is the  
957 subject of such medical information; (5) any physician, psychiatrist or  
958 psychologist who has been ordered by the court to conduct an  
959 examination of such individual; or (6) any other party to the  
960 proceeding requiring such medical information as the court deems  
961 necessary in the interests of justice. Any such medical information filed  
962 with the court shall be confidential.

963 Sec. 23. (NEW) (*Effective from passage*) Any order or decree of a court  
964 of probate for sterilization pursuant to part VI of chapter 802h of the  
965 general statutes shall be stayed, for a period of not less than ten days  
966 from the date of such order or decree, to afford the respondent an  
967 opportunity to file an appeal pursuant to part VII of chapter 801b of  
968 the general statutes. If no such appeal is filed within such time period,  
969 the stay shall be lifted. If such appeal is filed within such time period,  
970 the stay shall remain in effect pending the outcome of the appeal.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>
Sec. 2	<i>October 1, 2003</i>
Sec. 3	<i>October 1, 2003</i>
Sec. 4	<i>October 1, 2003</i>
Sec. 5	<i>October 1, 2003</i>

Sec. 6	<i>October 1, 2003</i>
Sec. 7	<i>October 1, 2003</i>
Sec. 8	<i>October 1, 2003</i>
Sec. 9	<i>October 1, 2003</i>
Sec. 10	<i>October 1, 2003</i>
Sec. 11	<i>October 1, 2003</i>
Sec. 12	<i>October 1, 2003</i>
Sec. 13	<i>October 1, 2003</i>
Sec. 14	<i>October 1, 2003</i>
Sec. 15	<i>October 1, 2003</i>
Sec. 16	<i>October 1, 2003</i>
Sec. 17	<i>October 1, 2003</i>
Sec. 18	<i>October 1, 2003</i>
Sec. 19	<i>October 1, 2003</i>
Sec. 20	<i>October 1, 2003</i>
Sec. 21	<i>October 1, 2003</i>
Sec. 22	<i>October 1, 2003</i>
Sec. 23	<i>from passage</i>

**Statement of Purpose:**

To clarify and define the powers of the Probate Court Administrator, to clarify the prohibition against judges of probate practicing law in other courts of probate in contested matters, to amend certain statutory provisions concerning probate court proceedings in order to comply with the federal Health Insurance Accountability and Reportability Act of 1996, to provide for a stay of probate court orders and decrees for sterilization to afford the respondent an opportunity to file an appeal, and to make technical changes.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*